

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

GUEST TEK INTERACTIVE  
ENTERTAINMENT LTD.,

Plaintiff,

v.

NOMADIX, INC.,

Defendant.

Civil Action No. 18-1394-RGA

**DEMAND FOR JURY TRIAL**

**DEFENDANT NOMADIX'S ANSWER AND COUNTERCLAIMS**

Defendant Nomadix, Inc. ("Nomadix"), hereby responds to the Complaint of Guest Tek Interactive Entertainment Ltd. ("Guest Tek"). Except for the specific matters expressly admitted below, Nomadix denies all allegations in Guest Tek's Complaint.

**NATURE OF THE ACTION**

1. Nomadix admits that Guest Tek has filed a Complaint for Patent Infringement against Nomadix in this action and that Guest Tek alleges in the Complaint that this is an action for infringement of certain patents. Except for these specific admissions, Nomadix denies the allegations in paragraph 1 of the Complaint.

**THE PARTIES**

2. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 2 of the Complaint that would allow it to definitively admit or deny the allegations.

3. Nomadix admits it is a Delaware corporation with a principal place of business at 30851 Agoura Road, Suite 102, Agoura Hills, California 91301. Nomadix denies any other allegations in paragraph 3 of the Complaint.

### **JURISDICTION AND VENUE**

4. Nomadix admits that Guest Tek alleges this is an action arising under the patent laws of the United States. Nomadix admits that, to the extent the Complaint states a cause of action for patent infringement arising under the patent laws of the United States, the Court has subject-matter jurisdiction under 28 U.S.C. § 1338(a). Nomadix denies any other allegations in paragraph 4 of the Complaint.

5. For purposes of this action only, Nomadix does not contest personal jurisdiction. Nomadix denies any other allegations in paragraph 5 of the Complaint.

6. For purposes of this action only, Nomadix admits that, to the extent this is a civil action for patent infringement, 28 U.S.C. § 1400(b) permits the action to be brought in this judicial district in the first instance. Except for these specific admissions, Nomadix denies the allegations in paragraph 6 of the Complaint.

### **BACKGROUND**

7. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 7 of the Complaint.

8. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 8 of the Complaint.

9. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9 of the Complaint.

10. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10 of the Complaint.

11. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 11 of the Complaint.

12. Nomadix admits Guest Tek's offerings include OneView Internet and OneView Media. Except for these specific admissions, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12 of the Complaint.

13. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13 of the Complaint.

14. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14 of the Complaint.

15. Nomadix denies the allegations in paragraph 15 of the Complaint.

16. Nomadix denies the allegations in paragraph 16 of the Complaint.

17. Nomadix admits that, since 2016, Nomadix Service Engine (NSE) versions 8.7, 8.8, 8.9, 8.10, and 8.11 have been released in some sense. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of any other allegations in paragraph 17 of the Complaint.

18. Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 18 of the Complaint.

19. Nomadix denies, or lacks knowledge or information sufficient to form a belief about the truth of, the allegations in paragraph 19 of the Complaint.

20. Nomadix denies, or lacks knowledge or information sufficient to form a belief about the truth of, the allegations in paragraph 20 of the Complaint.

21. Nomadix denies the allegations in paragraph 21 of the Complaint.

22. Nomadix denies the allegations in paragraph 22 of the Complaint.

23. Paragraph 23 of the Complaint does not appear to include any allegations; to the extent any exist, Nomadix denies them.

24. Nomadix denies the allegations in paragraph 24 of the Complaint.

25. Nomadix denies the allegations in paragraph 25 of the Complaint.

26. Nomadix denies the allegations in paragraph 26 of the Complaint.

#### **COUNT I**

27. In response to paragraph 27 of the Complaint, Nomadix incorporates its responses to paragraphs 1–26 of the Complaint.

28. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 28 of the Complaint.

29. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29 of the Complaint.

30. Nomadix denies the allegations in paragraph 30 of the Complaint.

31. Nomadix denies the allegations in paragraph 31 of the Complaint.

32. Nomadix denies the allegations in paragraph 32 of the Complaint.

33. Nomadix denies the allegations in paragraph 33 of the Complaint.

34. Nomadix denies the allegations in paragraph 34 of the Complaint.

35. Nomadix denies the allegations in paragraph 35 of the Complaint.

36. Nomadix denies, or lacks knowledge or information sufficient to form a belief about the truth of, the allegations in paragraph 36 of the Complaint.

37. Nomadix denies the allegations in paragraph 37 of the Complaint.

38. Nomadix denies the allegations in paragraph 38 of the Complaint.

39. Nomadix denies the allegations in paragraph 39 of the Complaint.

40. Nomadix denies the allegations in paragraph 40 of the Complaint.

41. Nomadix denies the allegations in paragraph 41 of the Complaint.

42. Nomadix denies the allegations in paragraph 42 of the Complaint.

43. Nomadix denies the allegations in paragraph 43 of the Complaint.

44. Nomadix denies the allegations in paragraph 44 of the Complaint.

45. Nomadix denies the allegations in paragraph 45 of the Complaint.

46. Nomadix denies the allegations in paragraph 46 of the Complaint.

## **COUNT II**

47. In response to paragraph 47 of the Complaint, Nomadix incorporates its responses to paragraphs 1–46 of the Complaint.

48. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 48 of the Complaint.

49. Nomadix denies the allegations in paragraph 49 of the Complaint.

50. Nomadix denies the allegations in paragraph 50 of the Complaint.

51. Nomadix denies the allegations in paragraph 51 of the Complaint.

52. Nomadix denies the allegations in paragraph 52 of the Complaint.

53. Nomadix denies the allegations in paragraph 53 of the Complaint.

54. Nomadix denies the allegations in paragraph 54 of the Complaint.

55. Nomadix denies the allegations in paragraph 55 of the Complaint.

56. Nomadix denies the allegations in paragraph 56 of the Complaint.

57. Nomadix denies the allegations in paragraph 57 of the Complaint.

58. Nomadix denies the allegations in paragraph 58 of the Complaint.

- 59. Nomadix denies the allegations in paragraph 59 of the Complaint.
- 60. Nomadix denies the allegations in paragraph 60 of the Complaint.
- 61. Nomadix denies the allegations in paragraph 61 of the Complaint.
- 62. Nomadix denies the allegations in paragraph 62 of the Complaint.
- 63. Nomadix denies the allegations in paragraph 63 of the Complaint.
- 64. Nomadix denies the allegations in paragraph 64 of the Complaint.
- 65. Nomadix denies the allegations in paragraph 65 of the Complaint.
- 66. Nomadix denies the allegations in paragraph 66 of the Complaint.
- 67. Nomadix denies the allegations in paragraph 67 of the Complaint.
- 68. Nomadix denies the allegations in paragraph 68 of the Complaint.
- 69. Nomadix denies the allegations in paragraph 69 of the Complaint.

### **COUNT III**

70. In response to paragraph 70 of the Complaint, Nomadix incorporates its responses to paragraphs 1–69 of the Complaint.

71. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 71 of the Complaint.

- 72. Nomadix denies the allegations in paragraph 72 of the Complaint.
- 73. Nomadix denies the allegations in paragraph 73 of the Complaint.
- 74. Nomadix denies the allegations in paragraph 74 of the Complaint.
- 75. Nomadix denies the allegations in paragraph 75 of the Complaint.
- 76. Nomadix denies the allegations in paragraph 76 of the Complaint.
- 77. Nomadix denies the allegations in paragraph 77 of the Complaint.

- 78. Nomadix denies the allegations in paragraph 78 of the Complaint.
- 79. Nomadix denies the allegations in paragraph 79 of the Complaint.
- 80. Nomadix denies the allegations in paragraph 80 of the Complaint.
- 81. Nomadix denies the allegations in paragraph 81 of the Complaint.
- 82. Nomadix denies the allegations in paragraph 82 of the Complaint.
- 83. Nomadix denies the allegations in paragraph 83 of the Complaint.
- 84. Nomadix denies the allegations in paragraph 84 of the Complaint.
- 85. Nomadix denies the allegations in paragraph 85 of the Complaint.
- 86. Nomadix denies the allegations in paragraph 86 of the Complaint.
- 87. Nomadix denies the allegations in paragraph 87 of the Complaint.
- 88. Nomadix denies the allegations in paragraph 88 of the Complaint.

#### **COUNT IV**

89. In response to paragraph 89 of the Complaint, Nomadix incorporates its responses to paragraphs 1–88 of the Complaint.

90. In view of the vague wording of the pleadings, Nomadix lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 90 of the Complaint.

- 91. Nomadix denies the allegations in paragraph 91 of the Complaint.
- 92. Nomadix denies the allegations in paragraph 92 of the Complaint.
- 93. Nomadix denies the allegations in paragraph 93 of the Complaint.
- 94. Nomadix denies the allegations in paragraph 94 of the Complaint.
- 95. Nomadix denies the allegations in paragraph 95 of the Complaint.
- 96. Nomadix denies the allegations in paragraph 96 of the Complaint.

97. Nomadix denies the allegations in paragraph 97 of the Complaint.
98. Nomadix denies the allegations in paragraph 98 of the Complaint.
99. Nomadix denies the allegations in paragraph 99 of the Complaint.
100. Nomadix denies the allegations in paragraph 100 of the Complaint.
101. Nomadix denies the allegations in paragraph 101 of the Complaint.
102. Nomadix denies the allegations in paragraph 102 of the Complaint.
103. Nomadix denies the allegations in paragraph 103 of the Complaint.
104. Nomadix denies the allegations in paragraph 104 of the Complaint.
105. Nomadix denies the allegations in paragraph 105 of the Complaint.
106. Nomadix denies the allegations in paragraph 106 of the Complaint.
107. Nomadix denies the allegations in paragraph 107 of the Complaint.
108. Nomadix denies the allegations in paragraph 108 of the Complaint.
109. Nomadix denies the allegations in paragraph 109 of the Complaint.

### **DEFENSES**

Without assuming any burden that it would not otherwise bear, Nomadix asserts the following defenses and positions.

#### **NONINFRINGEMENT**

1. Nomadix does not infringe and has not infringed any valid and enforceable claim of U.S. Patent Nos. 8,811,184, 9,154,435, 9,531,640, and 9,871,738 (collectively, the “Asserted Patents”).



### **INVALIDITY**

2. One or more claims of each of the Asserted Patents are invalid for failure to satisfy one or more of the requirements of the patent laws, including without limitation 35 U.S.C. §§ 101, 102, 103, and 112.

### **COVENANT NOT TO SUE AND CONTRACTUAL ESTOPPEL**

3. To the extent any Nomadix accused instrumentality satisfies the limitations of any valid and enforceable claim of the Asserted Patents, Guest Tek's claims are barred by a covenant not to sue, and Guest Tek is contractually estopped from pursuing its claims.

### **FAILURE TO STATE A CLAIM**

4. Guest Tek's Complaint fails to state a claim upon which relief can be granted. For example, Guest Tek has failed to state a claim for direct infringement or willful infringement.

### **COUNTERCLAIMS**

Defendant Nomadix, Inc. ("Nomadix"), brings the following counterclaims against Plaintiff Guest Tek Interactive Entertainment Ltd. ("Guest Tek").

### **THE PARTIES**

1. Nomadix is a Delaware corporation with a principal place of business at 30851 Agoura Road, Suite 102, Agoura Hills, California 91301.

2. According to its Complaint, Guest Tek is a corporation organized and existing under the laws of the province of Alberta, Canada with a place of business at Suite 600, 777 8 Ave., SW, Calgary, Alberta, T2P 3R5, Canada.

### **JURISDICTION AND VENUE**

3. Nomadix seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

4. The Court has jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367(a).

5. The Court has personal jurisdiction over Guest Tek because Guest Tek purports to own all right, title and interest in the asserted patents and has consented to jurisdiction by bringing the present action.

6. To the extent that venue needs to be established for a counterclaim, venue is proper in this district to the extent it is proper with respect to Guest Tek's claim against Nomadix.

**FIRST COUNTERCLAIM: DECLARATORY JUDGMENT OF NONINFRINGEMENT**

7. Nomadix incorporates by reference paragraphs 1–6 of its Counterclaims.

8. Guest Tek alleges in its Complaint that Nomadix has infringed U.S. Patent Nos. 8,811,184, 9,154,435, 9,531,640, and 9,871,738 (collectively, the “Asserted Patents”). Nomadix has denied any such infringement. An immediate, real, and justiciable controversy now exists between Nomadix and Guest Tek with respect to each of the Asserted Patents.

9. Nomadix has not, under any theory that Guest Tek may assert, infringed any of the Asserted Patents.

10. Nomadix requests and is entitled to a declaration that Nomadix has not infringed one or more claims of the Asserted Patents.

**SECOND COUNTERCLAIM: DECLARATORY JUDGMENT OF INVALIDITY**

11. Nomadix incorporates by reference paragraphs 1–10 of its Counterclaims.

12. Guest Tek alleges in its Complaint that Nomadix has infringed the Asserted Patents. Nomadix has asserted a defense of invalidity with respect to each of the Asserted

Patents. An immediate, real, and justiciable controversy now exists between Nomadix and Guest Tek with respect to invalidity of each of the Asserted Patents.

13. One or more claims of each of the Asserted Patents are invalid for failure to satisfy one or more of the requirements of the patent laws, including without limitation 35 U.S.C. §§ 101, 102, 103, and 112.

14. Nomadix requests and is entitled to a declaration that one or more claims of each of the Asserted Patents are invalid.

#### **PRAYER FOR RELIEF**

WHEREFORE, Nomadix prays for the following relief:

A. A declaration that Nomadix does not infringe and has not infringed any of the Asserted Patents;

B. A declaration that one or more claims of each of the Asserted Patents are invalid;

C. An order adjudging that this case is exceptional under 35 U.S.C. § 285 and that Nomadix is entitled to recovery of its reasonable attorneys' fees;

D. An award to Nomadix of its reasonable attorneys' fees incurred in this action;

E. An award to Nomadix of its costs;

F. An order dismissing with prejudice all claims against Nomadix and denying all relief requested by Guest Tek; and

G. Such other and further relief in Nomadix's favor as the Court deems just and proper.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Nomadix hereby demands a trial by jury of all issues so triable.

Dated: October 31, 2018

/s/ Kenneth L. Dorsney  
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